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November 21, 1991

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Federal Communications Commission
Office of the Secretary

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

Re: MM Docket No. 91-221

Dear Ms. Searcy:

On behalf of Group One Broadcasting Limited Partnership, licensee of Television Station WAKC-TV, Akron, Ohio, I am transmitting herewith an original and nine copies of the aforesaid licensee's "Comments" in the Commission's pending inquiry designed to review the policy implications of the changing video marketplace.

If there are any questions concerning this matter, kindly communicate with the undersigned.

Very truly yours,

C. R. Ramey

Carl R. Ramey

CRR/rr
Enclosures
cc: The Hon. Alfred E. Sikes, Chairman
The Hon. James E. Quello, Commissioner
The Hon. Sherrie P. Marshall, Commissioner
The Hon. Andrew C. Barrett, Commissioner
The Hon. Ervin S. Duggan, Commissioner

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NOV 21 1991

Federal Communications Commission
Office of the Secretary

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Review of the Policy Implications of the Changing Video Marketplace	))	MM Docket No. 91-221

To: The Commission

COMMENTS OF GROUP ONE BROADCASTING

November 21, 1991

GROUP ONE BROADCASTING
LIMITED PARTNERSHIP
WAKC-TV
Akron, Ohio

SUMMARY

The Commission's current duopoly and cross-ownership restrictions are unwise and counter-productive in today's video marketplace. The study conducted by the Office of Plans and Policy documents dramatic changes in the market for the delivery of video programming to the home, creating numerous competitive alternatives to broadcast television. As a result of this heightened competition, the regulatory justification for restrictions on individual broadcasters and the broadcast networks is vastly diminished.

Accordingly, Group One urges the Commission to modify its duopoly restrictions and institute action to eliminate the broadcast/cable, network/cable, and broadcast/newspaper cross-ownership prohibitions. These restrictions unfairly impair the ability of local broadcasters and the national networks to serve the public interest in a multichannel, multimedia marketplace. Elimination of these restrictions will produce equal and open competition among all entities to serve the needs of video consumers.

Group One urges the Commission to pay particular attention to the impact of its ownership restrictions on the national networks. The national television networks have long been a positive force in the ability of local affiliated stations to supply a vital mix of national and local programming. The current network/cable cross-ownership

prohibition unduly restricts the competitive options of the national networks. If left unchanged, it will also and inevitably undermine the ability of affiliated stations to provide local public service.

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To: The Commission

COMMENTS OF GROUP ONE BROADCASTING

Group One Broadcasting Limited Partnership ("Group One") hereby submits the following comments in response to the Commission's Notice of Inquiry, FCC 91-215, released August 7, 1991, concerning the policy implications of a new video marketplace.

Group One is a family-run business that has been in broadcasting for three generations. Group One has been the licensee of television station WAKC-TV, Channel 23, serving the Akron and Canton areas of Ohio as an ABC network affiliate for nearly forty years. Group One also owned and operated eight radio stations across the country dating back to 1940.

I. Preliminary Statement

The Commission initiated this inquiry to reassess its regulation of television broadcasting in light of profound changes in the market for video programming. The most striking change in the past two decades has been the rise of cable and other multichannel programming outlets as competitive alternatives to conventional broadcast television. These outlets not only offer an expansive array of channels, they are generally supported by a dual revenue stream -- subscriber fees and advertising revenues.

Group One believes that the FCC's current restrictive broadcast ownership policies threaten the ability of the television networks and their affiliates, as well as competing independent television stations, to respond to the competitive challenges presented by cable and other multichannel programming outlets. The FCC's policies were adopted at a time when only a handful of stations competed in most markets and dominance by the three television networks was perceived by the Commission to be a significant threat. In the video marketplace of the 1990's, however, these restrictions unnecessarily and unfairly limit broadcasters while leaving the cable and other multichannel media relatively unaffected.

Accordingly, Group One urges the Commission to initiate rulemaking proceedings to eliminate or, at a minimum, relax the duopoly and cross-ownership limitations applicable to television broadcasters and national networks. In the current intensely competitive environment, the federal government should not restrict the ability of one competitor to adopt more efficient organizational structures and capture economies of scale in the delivery of programming to consumers. Rather, the FCC should provide the television networks, their affiliates, and other over-the-air broadcasters the same opportunity that other video programmers enjoy to adopt strategies that will best enable them to remain competitive in the new video marketplace and to continue to provide the high quality locally-oriented program service they have historically brought to the American public.

II. The OPP Has Documented Dramatic Changes in the Video Marketplace Since 1975

As the Commission's Office of Plans and Policy recognized in a recently released study,[1] the past decade and a half has been marked by a dramatic increase in the number of viewing alternatives to broadcast television in general and to the three networks in particular, which has fundamentally and permanently altered the video marketplace. Today, 53% of all households receive at least 10 over-the-air signals. OPP Study, 6 FCC Rcd. at 4013 (Table 4). Cable television is now available to over 90% of all television households and 56% of such households currently subscribe to cable. Id. at 4044 (Table 15). Satellite distributed cable television networks have proliferated, with over 100 national

[1] Broadcast Television in a Multichannel Marketplace, Office of Plans and Policy Working Paper No. 26, 6 FCC Rcd. 3996 (1991) (authored by Florence Setzer and Jonathan Levy) (hereinafter OPP Study).

and regional networks now offering nearly unlimited viewing alternatives. In addition, in those areas not passed by cable television, 20% of all households receive multichannel programming through home satellite dishes. Id. at 4059. Finally, direct broadcast satellite (DBS) and "wireless cable" systems offer additional multichannel packages for consumers in many areas.

Not surprisingly, the prime-time viewing shares of the three major television networks have fallen by one-third since 1975, while cable networks' shares have shown a rapid increase in the last five years. Id. at 4016, 4018. Broadcasters have seen their advertising revenues decline and their program acquisition costs increase as a result of escalating cable expenditures for popular programming. Id. at 4031.

OPP predicts that the competitive strength of multichannel providers will increase over the next decade. Cable television's spot advertising revenues are likely to increase commensurate with an increase in viewing of cable channels. Id. at 4082. Cable, like other multichannel providers, also enjoys an advantage created by its ability to capture a revenue source -- subscriber fees -- in addition to advertising revenues. Thus, cable will be able to generate more revenue than broadcasters from an equal number of viewers.

III. Removal of Outdated Regulatory Restrictions Will Enable Television Broadcasters to Compete More Effectively in a Multichannel Video Marketplace

As the OPP study demonstrates, the networks, their affiliates, and competing independent television stations face strong competition from multichannel providers in the acquisition of programming and the sale of advertising spots. Moreover, all indications are that the competition will only increase in the coming years. Broadcasters' ability to compete effectively with multichannel providers will be greatly enhanced, however, if the Commission removes the ownership limitations and other outdated and unnecessary regulatory restrictions that prevent both local television station operators and national television networks from adopting more efficient structural and programming arrangements.

The Commission's regulations should be redesigned to anticipate the needs and problems of broadcasters, before its regulatory restrictions have irreversibly weakened the broadcast industry. In particular, Group One urges the Commission to act swiftly to:

- Eliminate (or, at least, substantially relax) the television duopoly restrictions;
- Call upon Congress to eliminate the statutory broadcast/cable cross-ownership prohibition; and

- Eliminate the Commission's broadcast/cable, network/cable and broadcast/newspaper cross-ownership prohibitions.

A. The Commission's Current Duopoly and Cross-Ownership Rules Should Be Eliminated or Substantially Relaxed

The OPP study correctly observes that "[r]ules imposed to curb network or station market power or concentration of control over programming when television broadcasters were the video marketplace may be counterproductive in today's competitive market." OPP Study at 4102 (emphasis in original). Accordingly, OPP recommends that the Commission eliminate or relax outdated restrictions such as the multiple ownership and duopoly rules. Id. at 4103. OPP also recommends repeal of the statutory broadcast/cable cross-ownership prohibition and elimination of the FCC's corresponding and related cross-ownership rules. Id.

Group One urges the Commission to rescind or relax its television duopoly and cross-ownership limitations. The time has come to allow broadcasting concerns of all sizes to compete freely and pursue innovative methods to serve the public interest. The Commission's current cross-ownership restrictions unnecessarily prevent local broadcasters and the national networks from seeking combinations with non-broadcast media that would improve the video entertainment services received by viewers. The restrictions act as an arbitrary and inequitable obstacle to marketplace competition in the competitive video environment of the 1990's.

The Commission once believed that it had to protect viewers from network dominance. Today, however, the Commission must act to ensure that its cross-ownership restrictions do not unfairly undermine the networks. The recent decline in the competitive strength of the television networks especially concerns Group One because the strength of local affiliates and the unparalleled local service provided by them result in large part from the mutually beneficial relationship between the television networks and their affiliates. Cross-ownership rules that constrain the networks' ability to compete effectively in the multichannel marketplace, however, threaten not only the networks, but also the local affiliates' ability to provide high-quality service to viewers.

B. Elimination of Outdated Cross-Ownership Restrictions Will Actually Foster Localism and Diversity

In the highly competitive video environment of the 1990's, removal of the cross-ownership restrictions, not maintenance of them, will best promote the FCC's goals of localism and diversity. Local programming has long been the hallmark of over-the-air broadcast television. Indeed, as OPP found, it is the "primary domain" of broadcast television. Id. at 4087. This local service has, in large measure, been made possible by the national service supplied by the television networks, which helps ensure the financial health and stability of local affiliates. Network affiliates produce the vast majority of the local news and other local programming that is available to the consumer, principally because of the symbiotic relationship between affiliates and the networks that has afforded affiliates the viewer recognition and financial resources to provide such programming.

Over-the-air television stations and, in particular, network affiliates are likely to continue to be the primary source of local programming in the next decade. Many non-network stations simply lack the resources to provide the degree of local programming provided by network affiliates. Further, cable television systems typically devote a relatively small portion of their delivery capacity to local programming and, unlike broadcasters, are not under any federal regulatory obligation to provide such programming. Similarly, satellite-based systems appear to be best equipped to provide programming for national, or at best regional, distribution.

The decline in broadcast television predicted by OPP may threaten the ability of network affiliates and other television broadcasters to maintain local programming service. As costs of programming rise and advertising revenues decline, the television networks, if still constrained by the FCC's restrictive ownership policies, will be weakened. Any weakening of the networks will inevitably work to the detriment of network affiliates such as Group One, which may be forced to resort to cutting expenditures on local news and programming. Elimination or relaxation of the ownership restrictions, however, can help avoid that result.

First, elimination of the network cross-ownership restrictions will free the networks to adopt strategies to remain competitive in the video marketplace of the 1990's. This would enable the networks to apply their program acquisition, "packaging" and distribution expertise to the multichannel media, helping to improve the service provided to consumers on the multichannel media. In this regard, Group One wishes to remind the Commission of the key role that the radio networks played in the development of television broadcasting in the 1930's and 1940's. A similar kind of stimulation of service and innovative improvements in multichannel delivery systems can be expected if the Commission frees the television networks to compete in the video marketplace of the 1990's.

Second, removing the broadcast/cable cross-ownership restrictions will permit and create incentives for more joint ventures among neighboring stations and other media for news gathering or local affairs programming. Through these arrangements, stations could share the costs associated with producing this programming, thereby enabling each station to produce the same quantity of programming it previously produced, but at a lower cost.

A third effect of removing the television ownership restrictions is likely to be an increase in local programming provided by cable. As the nascent local all-news cable channels demonstrate, local programming is a highly cost-intensive venture. The national networks and many local broadcasters have already made this investment, and would benefit greatly from the additional outlets that cable would provide. By allowing broadcasters or national networks to hold ownership interests in cable systems as well, the Commission can help establish the economic incentives for innovative cable programming undertakings.

IV. Conclusion

Whatever the merits of the Commission's duopoly and cross-ownership restrictions when they were implemented, they are unnecessary and counter-productive in the competitive environment facing the broadcast industry today. The marketplace for video entertainment has changed dramatically over the past fifteen years, and the Commission's rules should be redesigned to reflect the diminished regulatory justification for many of its broadcast ownerships policies. The ownership rules currently in place needlessly restrict television broadcasters and the television networks in their ability to serve viewers in a multichannel, multimedia environment. A restriction such as the network/cable cross-ownership prohibition may keep the television networks out of the cable business, but it also threatens to force the networks, and their affiliates, out of the network and local broadcasting businesses as they currently exist.

The Commission should therefore eliminate the duopoly and cross-ownership restrictions applicable to television broadcasters and the television networks. This will allow broadcasting entities to compete freely with multichannel providers and to develop innovative and more efficient methods of serving the video consumers' needs. Group One strongly believes in the ability of video consumers, acting through an open and fair marketplace, to determine the best way to serve their desire for video entertainment.

Respectfully submitted,

GROUP ONE BROADCASTING LIMITED PARTNERSHIP

Roger G. Berk, Jr.

By: /s/Roger G. Berk, Jr.
Roger G. Berk, Jr., President
Group One Communications, Inc.
(General Partner)

November 21, 1991